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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Secretary:

Copies of the attached "Summary of Comments in CC Docket No. 92-115 -- Revision of Part 22 of the Commission's Rules" were served on several members of the Commission staff, pursuant to Section 1.1206(a)(1) of the Commission's Rules, 47 C.F.R. § 1.1206(a)(1). Names of those members of the staff served with this document are listed on the next page. In addition, in accordance with Section 1.1206(a)(1), I am enclosing an original and one copy of the "Summary of Comments in CC Docket No. 92-115 -- Revision of Part 22 of the Commission's Rules" to be included in the record in CC Docket No. 92-115.

Respectfully submitted,

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**SUMMARY OF COMMENTS
IN CC DOCKET NO. 92-115

REVISION OF PART 22

OF THE COMMISSION'S RULES**

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June 27, 1994

FORWARD

On May 20, 1994, the FCC released a Further Notice of Proposed Rulemaking which proposes additional revisions to Part 22 of the Commission's rules governing the Public Mobile Services.¹ The initial round of comments on the Further Notice were filed on June 20, 1994, and are briefly summarized herein.

We have done our best to represent each commenter's positions accurately on a range of issues within two pages and in a consistent format. Due to space and time constraints, however, many supporting arguments have been truncated and rephrased to conserve space. Accordingly, in all cases, it is highly advisable to review the actual commenter's text. All summaries have page references to the actual commenter's text.

¹ In the Matter of Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, FCC 94-102 (rel. May 20, 1994).

TABLE OF CONTENTS

	<u>Page</u>
AIRTOUCH PAGING	1
ALLTEL MOBILE COMMUNICATIONS, INC.	3
ALPHA EXPRESS, INC.	5
AMERITECH MOBILE SERVICES, INC.	6
BELL ATLANTIC MOBILE SYSTEMS, INC.	7
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION . .	8
THE COMMITTEE FOR EFFECTIVE CELLULAR RULES	9
COMP COMM, INC.	11
GTE SERVICE CORPORATION	13
MCCAW CELLULAR COMMUNICATIONS, INC.	15
METROCALL, INC.	17
NEW PAR	18
NEXTEL COMMUNICATIONS, INC.	19
NYNEX CORPORATION	20
PAGING NETWORK, INC.	22
PAGING PARTNERS CORPORATION	24
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION	25
PREMIERE PAGE, INC.	26
PRIORITY COMMUNICATIONS, INC.	28
PRONET, INC.	29
THE RURAL CELLULAR ASSOCIATION	30
SKYTEL CORPORATION	32
SMR SYSTEMS, INC.	33

	<u>Page</u>
SOURCE ONE WIRELESS, INC.	35
SOUTHWESTERN BELL MOBILE SYSTEMS, INC.	36
TRI-STATE RADIO CO.	38
U S WEST	39
VANGUARD CELLULAR SYSTEMS, INC.	40

AIRTOUCH PAGING
Comments on Part 22 Revisions

Interest: Paging company operating throughout the United States (formerly PacTel Paging).

931 MHz Paging Applications:

- The FCC should not abandon its current block allocation processing rules (i.e., assigning each licensee a different frequency) for 931-932 MHz channels as these rules eliminate instances of mutual exclusivity. (3-4)
- The agency's proposal will lead to strike and speculative applications. (4)
- The FCC's backlog of applications may be the result of industry growth, not problems with the current procedures. (4-5)
- The agency's proposal is inconsistent with Congressional directives to reduce instances of mutual exclusivity. (6-7)
- The agency should not make general rule changes to solve a small percentage of problems, but instead should adopt specific changes to target problem areas, such as:
(1) assign channels available at time license is granted rather than at time application was filed; (2) place all applications that fall within a filing window into the bidding pool along with all frequencies available at the time the auction is held; and (3) consider frequencies available even if not terminated by Public Notice. (8, n. 21)
- Supports reducing filing window to 30 days. (13)
- Opposes first-come, first-served application approach and reducing filing window below 30 days, as it would eliminate the opportunity and need for licensees to file competing applications. (13, n. 36)
- The FCC should use competitive bidding for all pending applications. Treating pre-July 26 and post-July 26 applications by lottery and auction, respectively, could create confusion and further processing delay. (14)

- The agency's proposal to redefine "modification" applications will reduce paperwork and create needed flexibility. The FCC also should adopt new power curves in accordance with the Narrowband PCS Rules. (15-16, n. 41)
- The FCC should adopt first-come, first-served rules for modification applications to ensure prompt and efficient processing, but should place grants on Public Notice. (16)
- The FCC should adopt a "market area" licensing approach. "State wide" market areas are more appropriate than licensee-designed market areas. (9-11)
- As part of statewide market area licensing, the FCC should:
 - direct licensees to identify the sites and states served to define their aggregate geographic service areas ("AGSA"). (9-10)
 - require co-channel licensees in same state to coordinate. (9-10)
 - require 401 application filing and use of existing processing procedures for AGSA extensions. (10-12)
 - eliminate filing requirements for sites that are internal to the AGSA of the licensee in the market, as is now allowed for cellular facilities. (9-11)
 - adopt technical calculations for interference and service areas contained in CC Docket 93-116 (power limits for 931 MHz paging stations). (11-12)

ALLTEL MOBILE COMMUNICATIONS, INC.

Comments on Part 22 Revisions

Interest: Cellular and paging services provider.

Service Area Boundary Extension:

- Absent a statement that the five-year fill-in period has expired and that the SAB extension does not cover any unserved area, the FCC should assume that the application does not propose such an extension. (2)
- FCC Form 489 should be sufficient where an SAB extension covers an unserved area less than 50 square miles and the applicant has obtained the adjacent licensees' consent or waiver of right to file. (2)

Map Scale:

- Supports change to 1:500,000 scale. (2)
- Because they may have large inventories of 1:250,000 scale maps, carriers should be given an option for at least two years to file maps on either scale. (2)

Elimination of Licensing for Inner Cell Sites:

- Endorses the FCC's proposal but requests clarification that the interference protection now given to inner cells when the Form 489 is filed will not be lost under the new proposal. (3)
- Questions about inner cell sites could be resolved by requiring cellular providers to maintain and, upon reasonable request, provide to adjacent licensees, information on frequencies, power, height, and coordinates of inner cell sites when there is a potential interference question. (3)
- One-time filing for each system's CGSA could be facilitated if carriers were not required to duplicate extensive Table MOB2 and Table MOB3 information already on file with the FCC. Provision of such information could be a substantial undertaking, especially for carriers in large MSAs or with multiple systems. (3)

- Information submission should be limited to coordinates, tower height, and transmitter power. (3)

System Information Updates:

- Generally supports the FCC's proposal but believes that the requirement to file Table MOB3 for each cell site three times and then to update the FCC's database when filing system identification maps is burdensome. (3)
- If there is a demonstrated need for this information, it should be filed with system identification updates. (3)

Other Matters:

- The FCC should complete its proceeding on toll fraud and adopt the proposals set forth in CTIA's comments. (4)
- The necessity of dealing with coordinates from two sets of data--NAD83 for the FAA and NAD27 for the Commission--generates confusion and delay, especially for transmitters licensed for different services on the same tower. Thus, either FAA's or FCC's database should be used for tower height and coordinate verification. (4)

ALPHA EXPRESS, INC.
Comments on Part 22 Revisions

Interest: Wide-area paging company in New York City area operating on 931.9625 MHz. Party in pending proceeding involving reconsideration of FCC grants.

931 MHz Paging Applications:

- Retroactive application of the proposed rule changes would operate as ex post facto law, violate due process, and contradict concepts of orderly and fair licensing. (6-7)
- The FCC's proposal would be contrary to the public interest to ensure continued communications service. (7-8)
- Because the proposed rule does not subject all non-final grants to further proceedings, it would result in dissimilar treatment of licensees irreconcilable with equal protection laws. (8-9)
- The FCC's proposal appears to be an unconstitutional bill of attainder targeted at Alpha. (9-10)
- The agency has failed to weigh additional disadvantages of its proposal. (10-11)
- Case precedent does not support retroactive rule changes for applications that have been granted. (11-12)
- The agency's decision to include future applications would evoke increased processing backlogs and litigation. (12)
- New rules should be applied prospectively. (12-13)
- The agency has authority to offer an array of incentives, including tax certificates, to encourage dismissal of applications and voluntary compliance with its policy goals. (13)

AMERITECH MOBILE SERVICES, INC.
Comments on Part 22 Revisions

Interest: Common carrier paging company.

931 MHz Paging Applications:

- The 30 day "cut-off" period for mutually exclusive applications should be extended to 60 days to accommodate licensees who receive FCC Public Notices by mail. (6)
- The 1.6 miles separation criteria for defining an "initial" license is too restrictive. "Modification" application should be defined as any application for facilities with a 50% service area overlap of (or a 16 mile separation from) existing station; this standard is already applied under Section 22.16(b)(2) of the Commission's rules. (7-9)
- Opposes first-come, first-served application process because it ignores the fact that companies cannot always anticipate customer demand to determine where to establish the next transmitters as well as budgetary constraints. Therefore, companies need an opportunity to respond to competing applications. (9)
- Asks the FCC to allow Form 489 permissive construction of facilities that fill-in "doughnut hole" gaps in service areas where no other party can file competing application. Ability would provide flexibility for licensees to serve the public interest without delays inherent in obtaining authorization via Form 401 filings. (2-4)
- The FCC should allow "pre-grant construction" of 931 MHz facilities above Line A now that the U.S. and Canada have reached an agreement regarding the processing of applications in this band. (4-5)

BELL ATLANTIC MOBILE SYSTEMS, INC.
Comments on Part 22 Revisions

Interest: Holds cellular radio authorizations to operate cellular systems in the Northeast, Midatlantic, Southeast and Southwest regions of the United States.

Other:

- Bell Atlantic strongly supports all of the changes listed in Section III of the Further Notice, as the proposals will ease the paperwork burden on both the FCC and cellular carriers while still ensuring that the FCC receives all information necessary to discharge its licensing responsibilities. (1-2)

THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION
Comments on Part 22 Revisions

Interest: Trade association whose members provide commercial mobile services.

Service Area Boundary Extensions:

- Urges the FCC to adopt a rule that allows de minimis expansions of CGSA where minor adjustments are made to the cell sites from the CGSA border. (4)
- The FCC should be flexible in the amount of de minimis expansion it will allow and should adopt less formal procedures to address minor adjustments to CGSAs. (4)

Elimination of Licensing for Inner Cell Sites:

- Supports the elimination of licensing for inner cell sites but requests clarification whether such action will also eliminate interference protection. (4)
- Suggests that the FCC establish filing dates that prioritize the markets that are experiencing tremendous expansion and where the potential for interference is greater. (5)

Other:

- Urges the FCC to move forward and adopt CTIA's proposals in the toll fraud proceeding to: (1) ensure that each mobile unit maintains the integrity of a unique, factory-set electronic serial number; (2) urge Congress to enact new legislation that would make altering an ESN a federal crime; (3) request Congress to give federal law enforcement agencies the tools necessary to prosecute cellular fraud; and (4) allow liability for fraud to rest with the entity most able to control it. (5-6)

THE COMMITTEE FOR EFFECTIVE CELLULAR RULES
Comments on Part 22 Revisions

Interest: Ad hoc organization of cellular permittees/licensees, engineering firms, investment bankers, and industry consultants whose members are also applicants for cellular unserved areas.

Service Area Boundary Extensions:

- CECR has no objections. (2)

Map Scale:

- CECR has no objections. (2)

Elimination of Licensing for Inner Cell Sites:

- Opposes proposal to eliminate licensing of inner cell sites, as it will hinder enforcement of numerous technical, environmental, land-use, and operational requirements that apply to each cell site. (2-3)
- Injury to public interest outweighs FCC's asserted justifications for "cell site deregulation." Cellular licenses can be reformatted with less paper, perhaps by placing them in a tabular format. (3-4)
- The FCC should explicitly confirm that its action does not retroactively legitimize conduct that violates the Communications Act or the Commission's rules. (4)
- The FCC should expressly reserve its authority to request full Table MOB-2/MOB-3 information for any or all cell sites comprising a system. Carriers should be required to prepare and maintain such information in their files to reflect their actual system configuration rather than merely preparing such information after receiving a Commission request. (4, n.4)

System Information Updates:

- Deletion of inner-cell information from SIU maps could create substantial problems in determining a

carrier's lawful coverage at the end of its five-year fill-in period. (5)

- The FCC should also require that a complete date-stamped copy of the FCC Form 489 showing the cell's engineering parameters for each exterior cell be filed with the SIU, and not just the cell's engineering parameters alone. (5-6)

COMP COMM, INC.
Comments on Part 22 Revisions

Interest: Engineering and information service company specializing in common carrier industry.

Map Scale:

- Supports proposed 1:500,000 map scale, as such maps: (1) provide sufficient detail to determine whether SAB contours extend beyond market boundaries or into any unserved areas; (2) are more manageable; and (3) are readily available from USGS. (3)
- Applicants can continue to maintain the 1:250,000 scale system maps as design aids. (3)

Elimination of Licensing for Inner Cell Sites:

- Rather than undertaking a completely new data entry for all external cell site information, applicants should be required to submit a list of their external cell sites so that the FCC can delete all "internal" sites from its existing files. (3)
- Essentially supports the FCC's proposal to eliminate the listing of internal cell sites, but the objective of limiting processing efforts and costs should not completely de-regulate the treatment of internal cell sites. (3-4)
- The FCC should require an annual accounting differentiating cells as external or internal and including a one-page table of parameters for each transmitter site. (4)

System Information Updates:

- Seeks clarification of the FCC's example. If both markets are labelled clearly on the map, only those portions of each MSA/RSA necessary to encompass the pertinent market "Y" SAB extension contour into market "X" should be required. (4-5)

931 MHz Paging Applications:

- Supports requirement that applicants file for specific 900 MHz frequencies as it will enable expeditious and businesslike system development and

protection from grant of disparate frequencies within a system or grant of the system frequency to another carrier within the proposed system boundaries. (5)

- Proposed two kilometer separation criterion to distinguish between initial applications and modifications is arbitrary and lacks technical merit. Rather, a separation of 26 kilometers should be used. (6)

GTE SERVICE CORPORATION
Comments on Part 22 Revisions

Interest: Provider of wireless telecommunications service, with cellular, satellite, and other mobile radio service offerings.

Service Area Boundary Extensions:

- Supports the FCC's proposal because it will ensure improved coordination between cellular licensees while streamlining FCC review of filings. (2)

Map Scale:

- Does not oppose adopting 1:500,000 scale standard. (3)
- Seeks clarification of Section 22.926 of the Commission's rules with respect to references to USGS and ensuring the ability of licensees to use non-USGS maps. (3)

Elimination of Licensing for Inner Cell Sites:

- Access to information about external cell sites, combined with knowledge about identity of licensees in adjacent markets, should enable cellular licensees to address any interference concerns. Licensees should nonetheless maintain their own complete records for identifying all inner cell sites and associated operating data comparable to the information now submitted. (4)
- The FCC should require licensees to maintain and, upon reasonable request, provide information to other FCC radio service licensees so that they may determine and resolve the cause of interference. (4)
- One-time filing of external cell site information proposed by FCC would be extremely burdensome. Instead, licensees should only have to submit a map, the site location coordinates, and the FCC location number for external cell sites. (5)

System Information Updates:

- Proposed new requirement to submit Table MOB3 information for each exterior cell is unduly

burdensome and unnecessary, as such data is already on file with the FCC. (6)

- Strongly supports the proposed elimination of required filing of a frequency plan with the SIU filing. (6)
- Labelling requirements for SIU filings should include relevant market number and frequency block. (6)

MCCAW CELLULAR COMMUNICATIONS, INC.
Comments on Part 22 Revisions

Interest: Cellular carrier.

Service Area Boundary Extensions:

- Supports the proposal as it will allow more efficient and expeditious FCC staff review. (2)

Map Scale:

- Requests clarification that only the contours of border cells would be depicted on the map. (3)
- The FCC should not require cellular licensees immediately to prepare and file new maps for all markets. (3-4)
- Carriers should be given the option of beginning to use 1:500,000 scale maps immediately or by no later than the proposed deadline for submitting external cell site information. (4)

Elimination of Licensing for Inner Cell Sites:

- Strongly supports the proposal to eliminate licensing or prior notification of internal cell sites and estimates that the number of applications filed will be reduced by 50 to 60 percent company-wide and by 70 to 80 percent in markets that have passed their five-year dates. (5)
- The proposal will also free valuable FCC resources to handle new filings generated by licensing of PCS and create greater parity between cellular operators and PCS providers, who are not now required to file notifications or applications regarding their facilities. (5)
- Carriers should continue to file information regarding their external sites, and the FCC should maintain up-to-date records reflecting this data. (5)
- The FCC should consider requiring the submission of the one-time external cell filing, starting with smaller markets first and then progressing to larger markets, i.e., in reverse order from its proposal. (6)

System Information Updates:

- Supports adoption of the proposed changes as they will simplify filing requirements while increasing the usefulness of the information. (7)
- The FCC should phase in the change in map scale in accordance with deadlines set for submission of border cell information, thus establishing a consistent date for conversion to the new scale in each market and easing the burden on carriers and staff in complying with new rules. (7-8)

Other:

- Reiterates its concern for prompt FCC action to restate the limitations on the manipulation of cellular phone electronic serial numbers. The FCC should clarify the illegal nature of this activity and provide adequate enforcement tools by promptly adopting proposed Section 22.919 of the rules. (8-9)

METROCALL, INC.
Comments on Part 22 Revisions

Interest: Wide-area paging company with plans to expand coverage.

931 MHz Paging Applications:

- Applicants that have already specified a frequency should be processed according to existing procedures. (4)
- The definition of "modification application" is too narrow. It would subject too many applications to competitive bidding and, thus, hinder cost-effective and rapid improvement of paging systems. (5-6)
- The agency should not treat fill-in filings to relocate facilities as initial applications. (6-7)
- Application of asymmetrical rules for 931 MHz and other mobile radio service frequencies is arbitrary, unfair, and contrary to Congressional mandate. (7-8)
- Auctionable applications should include only those that effectively constitute applications for new service, such as requests for new frequencies or for facilities with non-overlapping service areas. (8)

NEW PAR
Comments on Part 22 Revisions

Interest: Operates cellular systems in twenty-two MSAs and RSAs throughout Ohio and Michigan.

Elimination of Licensing for Inner Cell Sites:

- Supports the proposal but requests clarification that cells that do not comprise the CGSA boundary in markets where the borders have been consolidated are included in the definition of "internal cells" for which no filing will be required. (3)
- The elimination of the filing requirement should not relieve carriers from their obligation to frequency coordinate with adjacent carriers in accordance with Section 22.902(d) of the Commission's rules. (4)

Other:

- The Commission should eliminate the notification requirement for fixed cellular services and similar services operated in connection with the cellular system. (5)